

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD '84 OCT -3 P2:17

Before Administrative Judges
Charles Bechhoefer, Chairman
Dr. James C. Lamb
Ernest E. Hill

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED OCT 3 1984

In the Matter of
HOUSTON LIGHTING AND
POWER COMPANY, ET AL.

(South Texas Project
Units 1 and 2)

Docket Nos. STN 50-498 OL
STN 50-499 OL

ASLBP No. 79-421-07 OL

October 2, 1984

MEMORANDUM
(Brown & Root Letter dated September 27, 1984)

By letter dated September 27, 1984 (received by the Board Chairman late on September 28, 1984 and forwarded to the NRC Docketing and Service Branch for docketing that same day), Brown & Root, Inc. (B&R) has made certain allegations which may have a bearing upon our proposals for litigating Phase II issues in this proceeding, as well as upon the adequacy of the record upon which our March 14, 1984 Partial Initial Decision (Phase I PID) (LBP-84-13) was founded. The letter includes a number of broad charges without spelling out details by which we can ascertain their validity. Moreover, the letter does not set forth what (if any) corrective action that B&R seeks to have this Board (or NRC) take.

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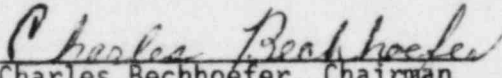
We have considerable doubt about the propriety of B&R making off-the-record allegations which could raise questions as to the integrity of our earlier decision or which could be construed as an attempt by a non-party to affect the course of future administrative hearings before us. We assume that B&R is aware that our decisions must be based on a record and that only parties before us can help shape that record. B&R has never sought to become a party to this proceeding.

At the prehearing conference currently scheduled for Tuesday, October 16, 1984, in Houston, Texas, we plan to consider proposals for the adjudication of Phase II issues. Like any other person, B&R could seek intervention into this proceeding, on a late-filed basis, if it believed that step were necessary to protect its interests. By copy of this Memorandum, we are inviting B&R, if it wishes to take that step, to send a representative to that conference and present any proposal it may have in this regard. If it does so, B&R should be prepared to set forth information which would satisfy the applicable standards of 10 C.F.R. § 2.714, including its standing. See, e.g., Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-342, 4 NRC 98 (1976); id., ALAB-363, 4 NRC 631 (1976). B&R should also set forth its contentions (and their bases) with some particularity. B&R may also wish to address our jurisdiction (if any) to grant relief with respect to our Phase I PID.

We would anticipate hearing B&R's claims early in the conference, which is to commence at 9:00 a.m. We would expect B&R's presentation to be relatively concise (i.e., no more than one-half hour). The Board may

have questions to ask concerning any of B&R's claims. We do not expect to hear oral responses from other parties at the conference but instead will permit them to respond in writing. We would propose then to rule upon matters affecting Phase II but to certify or refer to the Appeal Board any matters which we believe arise out of the Phase I PID and hence fall in that Board's jurisdiction.¹

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Charles Bechhoefer, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 2nd day of October, 1984

¹ On October 2, 1984, we informed B&R's representative of this Memorandum by telephone.